IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.1846 of 2005

DATE OF DECISION: DECEMBER 4, 2006

Harmohan Singh

...PETITIONER

VERSUS

Jagdev Singh and others

...RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.Raman Mohinder , Advocate,
for the petitioner.

...

The petitioner has filed this criminal revision against the judgment dated 3.6.2005 passed by the Sub Divisional Judicial Magistrate, Dhuri, whereby all the accused were acquitted of the charges framed against them.

In this case, on the statement of the complainant, FIR No.240 dated 18.10.2000 was registered against the accused under Sections 447/427/506/148/149 IPC at Police Station Dhuri. It has been alleged by the complainant that in a family settlement, he had received 5 biswas land in village Kakarwal which adjoins to the land of Sant Singh son of Lal Singh. He was in possession of the said plot since 1978 and had constructed three rooms and had also raised a boundary wall besides a hand pump in it. It has been further alleged that his brother Jagdev Singh and his sons namely Madan Singh, Ram Singh, Jaswinder Singh and Kaka had demolished the boundary wall of his plot and took the forcible possession. When he reached at the spot, all the accused fled away after giving threats. As per the prosecution story, the photographs of the place of occurrence were also taken.

The trial Court after appreciating the evidence available on the record came to the conclusion that the prosecution has failed to prove its case against the accused beyond the shadow of reasonable doubt. Therefore, by giving the benefit of doubt, all the accused were acquitted of the charges framed against them.

After hearing the counsel for the petitioner and going through the impugned judgment, I do not find any merit in this revision. The trial Court has observed that in this case no evidence was brought on record by the prosecution, to prove the demolition of the boundary wall by the accused. As per the statement of the complainant Harmohan Singh (PW3), he came to know next morning that accused had demolished the boundary wall. He further stated that when he visited the spot, the wall was already lying demolished. He has also admitted in his cross-examination that he has not seen the accused demolishing the boundary wall. Only it has been stated that they might have demolished it at night. He also admitted in his cross-examination that he was informed by PW1 and PW2 regarding the demolition of the wall. PW1-Karnail Singh and PW2-Amrik Singh have also stated in their statements that the wall in question was not demolished by the accused in their presence. In fact, they were told by the complainant that the accused have demolished the wall. In these facts, the trial Court found that no one has seen demolishing the wall by the accused.

The trial Court also came to the conclusion that the complainant has failed to prove his exclusive ownership over the said plot as he has not placed any writing showing that he became exclusive owner of the property in the family settlement effected in the year 1975. Even otherwise, there is a delay of 28 days in lodging the FIR, which makes the prosecution case

doubtful. Counsel for the petitioner could not point out any illegality or infirmity in the impugned judgment passed by the trial Court.

Hence, criminal revision is dismissed.

December 4, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE